



Ontario Nurses' Association

# Equity Bulletin

NEWS BYTES FROM THE HUMAN RIGHTS AND EQUITY TEAM

## A Message from ONA's Vice-President, Human Rights and Equity



In this edition you'll find the results of a province-wide study on improving work environments for Aboriginal nurses. The study offers important

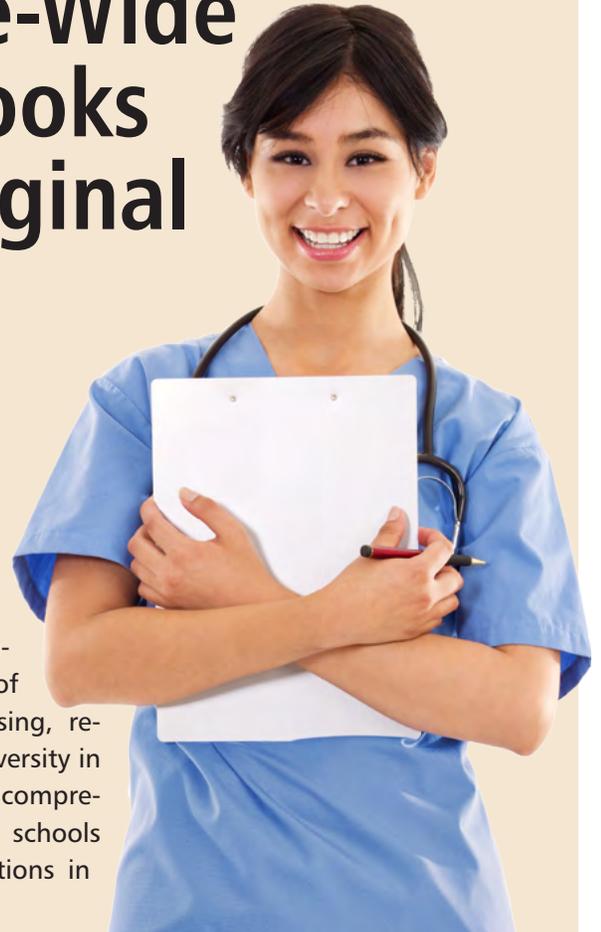
recommendations on recruitment and retention issues, which I encourage you to share with your employers and colleagues.

You'll also find highlights from ONA's new *"Frequently Asked Questions: Accommodating Family Status in the Workplace."* Employers must fulfill this human rights obligation when a work requirement seriously interferes with an employee's substantial parental or familial obligations. As the population ages, we can expect to see more accommodation requests from ONA members who are unable to resolve work-life conflicts related to providing essential care for elderly parents.

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## Province-Wide Study Looks at Aboriginal Nurses



To strengthen efforts to increase the representation of Aboriginal people in nursing, researchers at Lakehead University in Thunder Bay conducted a comprehensive study of nursing schools and health care organizations in Ontario.

While the exact numbers of nurses and nursing students of Aboriginal heritage in Ontario are unknown, it is clear that they are underrepresented relative to the size of the Aboriginal population. This shortage creates challenges for the health-care system. It is generally recognized that Aboriginal clients have unique care needs that require specific clinical and cultural competencies. Recruiting and retaining more nurses of Aboriginal heritage is widely seen as the best way of meeting this dual competency imperative, and having more First Nations, Inuit, and Métis nurses in the health care workforce, especially in leadership positions, would help foster Aboriginal-friendly work environments and also create role models.

The study, led by Dr. Bruce Minore of Lakehead University's Centre for Rural and Northern Health Research, recognizes that increasing the participation of First Nations, Inuit and Métis people in the nursing workforce requires supportive education and work environments where individuals feel safe and respected, and their cultural understandings of health are valued.

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→ FROM COVER

## Province-Wide Study Looks at Aboriginal Nurses

Participants were asked what is necessary to make work and school places where they feel welcome and their cultural interpretations are acknowledged. Ninety-four interviews were done with 30 Aboriginal nurses from across the province, 24 Aboriginal students and faculty from 16 nursing programs, and 40 nurse educators, supervisors or health administrators. Five health care organizations serving significant Aboriginal populations were chosen to reflect a cross-section of organizations in the province. Included were Six Nations Health Services and four ONA facilities: Sioux Lookout Meno Ya Win Health Centre, Kenora Aboriginal Health Access Centre, North Bay General Hospital and Kingston General Hospital.

The research has specific implications for schools and hospitals, and a key finding that applies to both. This is the misconception, often held by non-Aboriginal people, that Aboriginal cultures are homogeneous. In fact, the traditional beliefs, customs and practices of First Nations, Inuit and Métis Canadians can vary a great deal depending on geographical and tribal history. Aboriginal nurses and nursing students may know their own peoples' customs, but this should not be assumed; nor should they be called on as *Aboriginal experts* in the classroom or at work.

The researchers recommend that employers provide in-service education of sufficient depth and breadth to enable staff members to be familiarized with cultural features of the Aboriginal groups predominant in their catchment areas, as well as the social, political and historical factors that may affect the health and well-being of local Aboriginal communities. Implementation of this recommendation will benefit nurses, other staff, and clients of Aboriginal heritage.

The study also looks at the strategies in use at various nursing schools to support entry to and success in health care education programs. Examples of such strategies include: a year-long preparatory program; designated seats for Aboriginal students; application forms that enable self-identification as Aboriginal; and curricula that include the recognized Aboriginal cultural competence and cultural safety framework for First Nations, Inuit, and Métis nursing.

This study lays the foundation for province-wide recommendations on how nursing schools and hospitals can better accommodate Aboriginal students, and how the profession as a whole can better attract and retain Aboriginal nurses.

ONA members can read the full report, *Developing Supportive Workplace and Educational Environments for Aboriginal Nurses* (B. Minore, M.E. Hill, M. Boonwe, M. Katt, H. Cromarty and P. Kinch), at [www.cranhr.ca/pdf/Aboriginal\\_Nurses\\_Study\\_March\\_2013.pdf](http://www.cranhr.ca/pdf/Aboriginal_Nurses_Study_March_2013.pdf)

## "Main Messages"

- *The cultures of Aboriginal peoples differ greatly and so do individuals' knowledge about them. It is unfair to expect Aboriginal nursing students or nurses to be experts about a non-existent pan-Aboriginal culture, yet this happens on a routine basis.*
- *The majority of colleges and universities offer some components of their nursing curricula through distance education. However, specific marketing of these programs to potential Aboriginal students is needed.*
- *It is important to link Aboriginal students to academic and psycho-social supports in a deliberate way from the outset, rather than assuming they will find needed services on their own.*
- *Schools of nursing should consider developing curricula based on the Aboriginal cultural competence and cultural safety framework for First Nations, Inuit and Métis nursing created by the Aboriginal Nurses Association of Canada, the Canadian Association of Schools of Nursing and the Canadian Nurses Association.*
- *Employers should provide in-service education of sufficient depth and breadth to enable all staff members to become familiar with cultural features of the Aboriginal groups*

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*predominant in their catchment areas, as well as the social, political and historical factors that may affect the health and well being of these local communities.*

→ *Employers should not rely on general policies to protect Aboriginal staff against harassment, bullying or discrimination in the workplace. Aboriginal-specific provisions should be adopted. For example, Aboriginal spiritual beliefs should be explicitly protected under the right to freedom from religious discrimination.*

→ *Employers should ask Aboriginal nurses on staff what is needed to make their specific workplace one where they feel welcome and where they know both their cultural and their nursing knowledge is respected.*

## Save the Date!

Human Rights and Equity  
Teleconnect – May 21, 2014 at  
7:30 p.m. (EST)

ONA participation in World Pride  
Parade, Toronto – June 29, 2014

Human Rights and Equity  
Teleconnect – September 30, 2014 at  
7:30 p.m. (EST)

Annual Human Rights and Equity  
Caucus Meeting – November 17,  
2014



Back Row: Linda Green, Sarah Lacasse, Michael Balagus, Benjamin Ramirez Jimenez, Linda Belec. Front Row: Donna Walrond, Pam Mancuso, Karen Sandercock, Michelle Kennedy. Linda Warkentin is absent.

## Equity Team News

Two new members have joined the Provincial Human Rights and Equity Team for the January 2014 to December 2015 term. We wish to extend a warm welcome to **Benjamin Ramirez Jimenez** and **Sarah Lacasse**. Benjamin is a member of ONA Local 115, Region 3, and will be representing our Lesbian, Gay, Bisexual and Transgender Members Equity Group. Sarah is from ONA Local 2, Region 1, and she will represent our Members with Disabilities Equity Group.

We thank outgoing members **Anne Avery** and **Michael Levey** for their contributions over the last two years and for their longstanding commitment to advancing human rights and equity issues. We know they will continue to be strong advocates in their Bargaining Units.

There have also been some changes in staff support on the team. ONA Pay Equity Specialist **Donna Walrond**, in conjunction with CEO/CAO **Michael Balagus**, has taken on the role of project manager. We thank East District Services Team Manager **Kapil Uppal** for his hard work and dedication to the team over the past years.

The new team met for the first time on April 15-16, 2014 and worked on developing the theme for the November HR&E Caucus meeting.



# Join ONA for World Pride Toronto: Rise Up!

This June, all eyes will be on Toronto as the city hosts World Pride 2014, aka "WP14TO." This 10-day festival is set to run from June 20-29 and will feature an opening ceremony with a parade of nations, an international human rights conference, an AIDS candlelight vigil, and three parades, including a Trans March, Dyke March and Pride Parade.

ONA staff and members have been hard at work planning ONA's participation to ensure that nurses are represented in this international celebration of Lesbian, Gay, Bisexual and Transgender (LGBT) histories, activism and culture.

**Pam Mancuso**, Region 1 Vice-President (Human Rights Portfolio) says ONA will be out in force and taking our spot in the massive Pride Parade set for June 29, and planners are hoping many ONA members and staff will join in. There will also be an ONA

information booth at the World Pride Church Street festival from June 27-28 and members are encouraged to drop by.

"Pride is an important celebration for members of the Lesbian, Gay, Bisexual, Transsexual, Transgender, Intersex, Queer, Questioning, and Two-Spirit communities," Mancuso says. "It's a time to build a deeper understanding of the diversity that exists in LGBT communities as people come from a variety of backgrounds including Aboriginal, racialized, people with disabilities, francophone and youth."

Pride expresses the efforts of diverse member communities to build a larger community that is inclusive of all.

**Carolyn Edgar**, ONA Local 6 Coordinator and Bargaining Unit President, describes Pride as an opportunity to celebrate diversity in a way that is fun and uplifting. "It allows for creativity in dress and in design. It's like a

Mardi Gras. I can laugh and be merry and stand proud. It allows us to take ourselves less seriously. This year will have an international flare and an enhanced excitement!"

All ONA members, nursing students, friends, family and youth are encouraged to join the ONA Board of Directors and staff alongside our LGBT members and celebrate the gains we have made in human rights and equity. The Pride Parade contingent will meet on **June 29 at 12:30 p.m. at Rosedale Valley Road**. Water, snacks and t-shirts will be provided.

For additional information, please contact Region 1 Vice-President Pam Mancuso at (416) 964-8833, ext. 7703 or email [pmancuso@ona.org](mailto:pmancuso@ona.org).

All parade information will be provided on our WP14TO poster in the coming months, available on your workplace ONA bulletin board, and on the ONA website at [www.ona.org/pride](http://www.ona.org/pride).

# Family Status Discrimination: When is an Employer Required to Accommodate Child-Care Obligations?

In Ontario and in most other jurisdictions in Canada, human rights legislation protects employees from discrimination based on their “family status.” This status includes parents caring for children and adults caring for parents.

Over the last decade, a number of adjudicators across the country have considered the degree to which this protection covers an employee’s child-care obligations. Different legal tests have emerged in the case law for determining whether an employee is entitled to accommodation in the workplace when these obligations conflict with a workplace requirement. As a result, it can be difficult for unions to advise their members about their rights.

We do see when reviewing the emerging case law that not all conflicts between a work requirement and an employee’s child-care obligations will trigger the employer’s duty to accommodate. The bar for proving discrimination has been set relatively high. At a minimum, an employee must show interference with a substantial parental or familial obligation, as distinct from a personal choice or preference.

A substantial responsibility could be the need to provide medication to a child with a disability in the home when no other competent caregiver is available or to provide direct parental supervision to a child with behavioural difficulties when prescribed by the child’s health-care provider. By contrast, adjudicators have found there is no discrimination when a work requirement conflicts with an employee’s ability to escort his/her child to extracurricular activities, sports events, graduation ceremonies or a school concert.

Generally speaking, difficulties arranging ordinary or everyday child care have not been protected by the Ontario *Human Rights Code* unless there are exceptional circumstances, either in terms of the nature of the child care required or the barriers faced in securing alternate care-giving arrangements.

Also, an employee may have to show the work requirement poses a serious interference with the parental obligation, as opposed to a minor disruption or inconvenience. For example, an arbitrator has found the employer had a duty to accommodate when a change to an employee’s work schedule interfered with a carefully-crafted child custody arrangement and would force the employee to alter that agreement.

Earlier this year, the media reported on a decision from the Federal Court of Canada that sets a lower bar for proving family status discrimination for federal employees. The decision deals with a complaint filed by Fiona Johnstone under the *Canadian Human Rights Act*. Ms. Johnstone filed her complaint against the Canadian Border Services Agency in 2004 after her son was born. Prior to her maternity leave, both she and her husband worked full-time on rotating, irregular shifts at Pearson International Airport. But with a new baby, the constantly changing work hours made it impossible for the couple to arrange child care.

Upon returning to work, Ms. Johnstone requested a fixed schedule so she could arrange for child care. While the Agency had previously granted similar requests for accommodation from full-time employees for medical and religious reasons, it would not consider Ms. Johnstone’s request at all. This became a key issue in the case. The Agency claimed it did not have to provide accommodation to employees just so they could arrange child care and, therefore, did not have to even consider the request. Johnstone was told if she wanted a fixed schedule she would have to work part-time.

In its decision, the Federal Court confirmed that the Agency had discriminated against Ms. Johnstone because of her family status by failing to consider her request for child care-related accommodation and assess whether they could provide accommodation short of undue hardship. In May of this year, the Federal Court of Appeal dismissed the employer’s appeal.

The decision has been heralded in the media as a victory for all Canadian workers with family obligations, but ONA members should be cautioned that this decision is not binding on arbitrators in Ontario.

ONA will be watching closely to see whether arbitrators choose to adopt the reasoning in the *Johnstone* decision or continue to apply different standards.

In the meantime, ONA members can find answers to frequently asked questions about the employer’s duty to accommodate family status and how to make a request for accommodation in ONA’s new “*Frequently Asked Questions: Accommodating Family Status in the Workplace*,” which is available on ONA’s website at [www.ona.org/human\\_rights\\_equity/faq.html](http://www.ona.org/human_rights_equity/faq.html).

# Ontario Community Pride Dates



## MAY

### Guelph Pride

May 3 - 10 | [www.guelphpride.com](http://www.guelphpride.com)

### Elliot Lake Pride

May 30 - June 1 | [www.elpride.ca](http://www.elpride.ca)

### Tri-Pride: Kitchener/Cambridge/Waterloo

May 30 - June 7 | [www.tri-pride.ca](http://www.tri-pride.ca)

### Pride Niagara (St. Catharines)

May 30 - June 7 | [www.prideniagara.com](http://www.prideniagara.com)

### Kingston Pride

May 30 - June 15 | [www.kingstonpride.ca](http://www.kingstonpride.ca)

## JUNE

### Halton Pride

June 1 | [www.haltonpride.org](http://www.haltonpride.org)

### Pride Durham

June 2 - 8 | [www.pridedurham.com](http://www.pridedurham.com)

### Perth Pride

June 7 - 14 | <http://lgbtlanark.com/events/pride-in-perth>

### Barrie Pride (first)

June 7 - 14 | [www.barriepride.ca](http://www.barriepride.ca)

### Thunder Pride

June 8 - June 15 | [www.thunderpride.ca](http://www.thunderpride.ca)

### Hamilton Pride

June 9 - 15 | [www.hamiltonpride.org](http://www.hamiltonpride.org)

### Grey Bruce Pride

June 13 - 15 | <http://facebook.com/#1/GreyBruce>

### York Pride

June 14 - 22 | [www.yorkpridefest.com](http://www.yorkpridefest.com)

### Brantford Pride

June 20 - 21 | [www.brantfordpride.ca](http://www.brantfordpride.ca)

### Gananoque Pride Festival

June 20 - 22 | <http://www.prideinthe1000islands.com>

### World Pride Toronto

June 20 - 29 | [www.pridetoronto.com](http://www.pridetoronto.com)

## JULY

### Belleville Pride

July 5 | [www.bellevillepride.ca](http://www.bellevillepride.ca)

### Sudbury Pride

July 12 - 20 | [www.sudburypride.com](http://www.sudburypride.com)

### Muskoka Pride

July 18 - 27 | [www.gaymuskoka.com](http://www.gaymuskoka.com)

### Peel Pride

July 19 | [www.peelpride.ca](http://www.peelpride.ca)

### Brockville Pride Walk

July 19 | <https://sites.google.com/site/brockvillepride>

### Pride London

July 19 - 27 | [www.pridelondon.ca](http://www.pridelondon.ca)

## AUGUST

### Simcoe County Pride

August 1 - 9 | [www.simcoepride.com](http://www.simcoepride.com)

### Windsor-Essex Pride Festival

August 8 - 10 | [www.wepridefest.com](http://www.wepridefest.com)

### Capital Pride

August 15 - 24 | [www.capitalpride.ca](http://www.capitalpride.ca)

## SEPTEMBER

### Peterborough Pride

September 13 - 20 | [www.peterboroughpride.ca](http://www.peterboroughpride.ca)

### Chatham-Kent Pride

September 26 - 27 | [www.pride-ck.com](http://www.pride-ck.com)

### PLEASE NOTE:

The dates were accurate at the time of printing. Members are encouraged to check the individual websites prior to attending any of the Pride events.



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